

U.S. PTO Customer No. 25280

Case# 5410

REMARKS35 USC Section 112, 2nd Paragraph Rejection:

Claims 4-29 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that claim 4 is indefinite because it depends from claim 3, which states that the textile article "is comprised of spun-bonded continuous multi-component fibers." Thus, the textile article of claim 4 cannot be a film layer by itself since claim 3 requires a fibrous spun-bonded layer. Claims 5-29 are rejected due to their dependency on claim 4.

Applicants have cancelled claim 4 and have changed the dependency of the claims that depended from claim 4. A portion of the limitation contained in claim 4 -- that the article is a fabric -- has been added to claim 1. Accordingly, Applicants respectfully believe that the rejection of claims 4-29 has been overcome.

Double Patenting:

Claims 1-29 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21 and 42 of copending Application No. 10/071,427. Applicants believe that the Examiner intended to reference copending Application No. 10/071,297, rather than 10/071,427, since Applicants are unable to match the '427 number with any other relevant patent application. The discussion below is based upon the '297 patent application.

U.S. PTO Customer No. 25280

Case# 5410

Claim 42 was cancelled in Application No. 10/071,297; however, claim 21 has been allowed. Applicants are willing to file a terminal disclaimer against Application No. 10/071,297 once all other issues of patentability have been resolved.

35 USC Section 102 Rejections:

(A) Claims 1-6 and 22-29 were rejected under 35 USC Section 102(b) as being anticipated by Groten et al. (5,899,785).

The Examiner submits that Groten et al. disclose a nonwoven fabric formed from very fine continuous filaments (Abstract) by extruding and bonding multi-component fibers to produce a spun-bonded fabric (col. 4, lines 35-38) and that the fibers are physically or chemically treated to at least partially split the incompatible components into individual filaments (col. 4, lines 42-45). The incompatible components are made from polyamide and polyester components (Figure 1). Groten et al. further teach that the fabric can be chemically treated with anti-pilling treatments, hydrophilic treatments, and dyeing or printing (col. 5, lines 1-9). Such hydrophilic treatments would produce a fabric with soil release properties since the polyester component would more easily absorb water and thus, be more easy to wash and remove dirt. Therefore, the fabric would be treated to achieve a fabric with pilling resistance, soil release, strength and abrasion resistance properties to some degree due to the structure and chemical modifications of the fabric. Thus, the Examiner submits claims 1-6 are anticipated.

Applicants have amended claim 1 to include: (a) the limitation of claim 2 (structural limitations of the fibers comprising the textile article); (b) part of limitation contained in claim 4 (that the article is a fabric); and (c) the limitation of claim 7 (that the fabric achieves a minimum pilling resistance rating of "B" according to ASTM D4970 for Martindale Pilling and Marks &

U.S. PTO Customer No. 25280

Case# 5410

Spencer Test Method P17). As a result, Applicants respectfully submit that currently amended claim 1 is not anticipated by Groten et al. since the reference fails to teach a nonwoven fabric that is capable of achieving a minimum pilling resistance rating of "B" according to ASTM D4970 for Martindale Pilling and Marks & Spencer Test Method P17. Accordingly, since claims 3, 5, and 6 each depend from claim 1, or from each other, and claims 2 and 4 have been cancelled, Applicants respectfully submit that the rejection of claims 1-6 has been overcome.

With regard to claims 22-29, the Examiner submits that the manner in which a claimed product is intended to be employed does not differentiate the claimed product from a prior art product satisfying the claimed structural limitation. These claims depended from claim 4 and were rejected because they failed to add further structure to the claimed textile article.

Applicants have cancelled claim 4 and have amended claims 22-29 to depend from currently amended claim 3. Applicants respectfully submit that the rejection of claim 1 has been overcome and accordingly submit that since dependent claims 22-29 now depend from currently amended claim 3 (which in turn depends from currently amended claim 1), the rejection of claims 22-29 has also been overcome.

(B) Claim 1 was rejected under 35 USC Section 102(b) as being anticipated by Vigo et al. (5,897,952).

The Examiner submits that Vigo et al. discloses a chemical treatment which produces a fabric comprising soil release, durable press, resistance to static charge, abrasion resistance, pilling resistance, and water absorbency (Abstract). The chemical treatment can be applied to all types of fibrous constructions including nonwoven fabrics (col. 1, lines 60-65). Thus, the Examiner submits that the treated nonwoven fabric would achieve some degree of abrasion

U.S. PTO Customer No. 25280

Case# 5410

resistance, pilling resistance, soil release, and strength. Thus, the Examiner submits claim 1 is anticipated.

Applicants have amended claim 1 to include (among other limitations) the limitation of claim 2 – that the textile article is comprised of spun-bonded continuous multi-component fibers that are splittable along their length by mechanical or chemical action. Applicants respectfully submit that Vigo et al. fail to teach this structural limitation of the article. Accordingly, Applicants respectfully contend that currently amended claim 1 is not anticipated by Vigo et al. and that the rejection has been overcome.

35 USC Section 102/103 Rejections:

Claims 7-21 were rejected under 35 USC Section 102(b) as being anticipated by, or in the alternative, under 35 USC Section 103(a), as obvious over Groten et al.

The Examiner submits that although Groten et al. do not explicitly teach the limitations of pilling resistance, wearer comfort, life of fabric, appearance retention, soil release, lack of staining, strength, and abrasion resistance, it is reasonable to presume that said limitations are inherent to the invention.

Applicants respectfully submit that the fabric properties of claim 7-21 are not inherent in the fabric of Groten et al. because Groten et al. fail to disclose any chemical formulation or combination of chemicals which would provide such properties to the fabric. In fact, Applicants have shown, for example, in Tables 1 and 3 in the specification that the untreated control fabric (which may be considered similar to the fabric of Groten et al.) fails to achieve these properties.

U.S. PTO Customer No. 25280

Case# 5410

More specifically, Groten et al. fail to disclose any chemical treatment which would allow the nonwoven fabric to achieve, for example, a minimum pilling resistance rating of "B" according to ASTM D4970 for Martindale Pilling and Marks & Spencer Test Method P17 (claim 7, now cancelled and included in currently amended claim 1). Accordingly, Applicants respectfully submit that the reference is not enabling with regard to this limitation.

Furthermore, Applicants respectfully submit that the reference is not suggestive of any modifications that would lead one of ordinary skill in the art to create the combination of chemicals, as disclosed by Applicants, that would result in the nonwoven fabric claimed by Applicants having, for example: (a) a minimum pilling resistance rating of "B" according to ASTM D4970 for Martindale Pilling and Marks & Spencer Test Method P17 (claim 7, now included in amended claim 1); (b) a minimum soil release rating of 3.0 according to AATCC Method 130-2000 after 1 wash cycle (claim 11); (c) a minimum strength rating of 2.0 pounds according to ASTM D1424 for Elmendorf Tear (claim 17); and (d) a minimum abrasion resistance of rating of 520 cycles to failure according to ASTM D3886 for Stoll Flat (claim 20). Accordingly, Applicants respectfully request that the rejection of claims 7-21 be withdrawn.

35 USC Section 103 Rejections:

Claims 2-29 were rejected under 35 USC Section 103(a) as being unpatentable over Vigo et al. in view of Groten et al.

The Examiner submits that while Vigo et al. teach that the treatment can be applied to various fabric types and fiber types, Vigo et al. fail to teach using a nonwoven fabric made from continuous polyamide and polyester fibers formed by spun-bonding. Groten et al. is drawn to a

U.S. PTO Customer No. 25280

Case# 5410

spun-bonded nonwoven fabric which can be chemically treated; and the nonwoven fabric has characteristics and properties that are at least equal to woven and knit fabrics, while being produced by techniques which are clearly more efficient and less costly.

Therefore, the Examiner contends that it would have been obvious to one of ordinary skill in the art to use the fabric taught by Groten et al. with the chemical treatment taught by Vigo et al., since Groten et al. teach that the nonwoven fabric has properties of woven and knit fabric while being less expensive and Vigo et al. teach that the chemical treatment can be applied to various fabrics and fiber types. Thus, claims 2-6 were rejected. Claims 22-29 were rejected since the Examiner submits that claims 22-29 only recite the intended use of the fabric and fail to add further structural limitations to the fabric. Additionally, claims 7-21 were rejected because the Examiner contends that it is reasonable to presume that the limitations of pilling resistance, wearer comfort, etc. would be met by the combination of the two references, which use similar materials (spun-bonded continuous nonwoven fabric, polyester and polyamide) and similar production steps (chemically treating the fabric to achieve soil release, etc.) to produce the treated fabric.

Applicants respectfully contend that the rejection of claims 2-29 is improper because the rejection lacks a *prima facie* showing of obviousness. More specifically, Applicants contend that there is no motivation or suggestion for combining the references to create the nonwoven fabric of Applicants' invention. While Groten et al. is drawn to a bicomponent spun-bonded nonwoven fabric as similarly claimed by Applicants, Applicants respectfully submit that Vigo et al. teach a chemical treatment that is far different from that taught by Applicants. Vigo et al. teach a chemical treatment that provides a material having "improved thermal adaptability, i.e., the ability to release heat when the temperature drops and absorb heat when the temperature rises" (col. 3, lines 28-30). Vigo et al. recognized a need for a material capable of temperature

U.S. PTO Customer No. 25280

Case# 5410

adaptability (the problem to be solved) and created a chemical treatment comprised of polyethylene glycol, sulfonic acid, and glyoxal reactants to fill this recognized need (the solution to the problem). In contrast, Applicants chemical treatment for pilling resistance, soil release, strength, and abrasion resistance properties includes, for example, components such as fluorocarbon, high density polyethylene, long chain alcohol, and silicone – components which are not taught or suggested by Vigo et al.

Thus, while Vigo et al. indeed disclose that “the material also possesses improved properties relating to soil release, durable press, resistance to static charge, abrasion resistance, pilling resistance and water absorbency” (Abstract), it is Applicants contention that (1) Vigo et al. fail to teach a similar approach for achieving these properties, i.e. Vigo et al. teach far different chemistry for achieving the solution to the problem of achieving a temperature adaptable material and (2) Vigo et al. fail to enable all of these improved characteristics of the material, i.e., Vigo et al. fails to provide any teaching relating to chemical compounds which specifically enhance, for instance, pilling resistance. Furthermore, Applicants believe that these improved characteristics are merely additional benefits gained by Vigo et al. during the problem/solution approach undertaken to create the temperature adaptable material.

Accordingly, Applicants respectfully contend that one of ordinary skill in the art would not look to the temperature adaptable chemistry of Vigo et al. combined with the bicomponent spun-bonded nonwoven fabric of Groten et al. to create Applicants’ spun-bonded nonwoven fabric having the combination of characteristics which include pilling resistance, soil release, strength, and abrasion resistance properties. As such, Applicants respectfully request that the rejection of claims 2-29 be withdrawn.

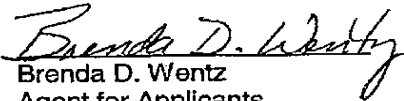
U.S. PTO Customer No. 25280

Case# 5410

In view of the above amendments and remarks, reconsideration of pending claims 1, 3, 5-6, and 8-29 is earnestly solicited.

Respectfully requested,

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Brenda D. Wentz
Agent for Applicants
Registration Number: 48,643
(864) 503-1597